

* * RULES * *

OF THE

Constitutional * Convention

OF THE

TERRITORY OF MONTANA.

MR. PRESIDENT:

Your Committee on Rules report the following rules for the government of the Convention, and respectfully recommend their adoption.

JOS. K. TOOLE,
Chairman of Committee.

RULES OF THE CONSTITUTIONAL CONVEN-
TION.

No. 1. *President*—The President shall take the chair at the time to which the convention stands adjourned, and the convention shall then be called to order, the roll called, and the names of absentees shall be entered upon the journal of the convention.

In case the President is absent, or fails from any cause to take the chair, the convention shall appoint a president *pro tem*.

No. 2. *Quorum*—Upon the appearance of a quorum, which shall consist of a majority of the whole number of members, the journal of the preceding day shall be read by the clerk, and any mistakes therein may be corrected by the convention.

No. 3. *Order*—The President shall preserve order and decorum, and shall decide questions of order subject to an appeal to the convention.

No. 4. *President Shall Vote*—The President shall vote on all questions taken by yeas and nays, and in all elections and divisions called for by any member. And in case of a tie vote, the proposition pending shall be lost.

No. 5. *Members Shall Remain Seated*—When the convention adjourns, the members shall keep their seats until the President announces the adjournment.

No. 6. *Proper Decorum*—Every member, previous to speaking, shall rise from his seat and respectfully address himself to the President.

No. 7. *Two or More*—When two or more members rise at once, the President shall designate the member who is first to speak, but in all cases the member who shall rise first and address the chair shall speak first.

No. 8. *Not to Speak More than Twice*—No member shall speak more than twice on the same subject without leave of the convention, nor more than once until every member choosing to speak on the question pending shall have spoken.

No. 9. *Motions to be Seconded*—No motion shall be debated or put, unless the same shall be seconded. It shall be stated by the President, and any such motion shall be reduced to writing, if the President, or any member, shall desire it.

No. 10. *Motions in Possession of the Convention*—After any motion shall be stated by the President it shall be in possession of the convention, but may be withdrawn at any time before amendment or decision; but all motions, resolutions or amendments shall be entered upon the journal whether they are rejected or adopted.

No. 11. *Debate*—When a question is under debate no motion shall be received, except: 1st, To adjourn; 2d, To lay on the table; 3d, For the previous question, 4th, To postpone to a day certain; 5th, To commit to a standing committee; 6th, To commit to a select committee; 7th, To amend; 8th, To postpone indefinitely; and these several motions shall have precedence in the order in which they stand arranged.

No. 12. *Adjournment*—A motion to adjourn shall always be in order, except when a member is addressing the chair, or a vote is being taken; that, and the motion to lay on the table, shall be received without debate.

No. 13. *Previous Question*—The previous question shall be in this form: "Shall the main question be now put?" It shall only be admitted when demanded by a majority of the members present, and its effect shall be to put an end to all debate and bring the convention to a direct vote upon the amendments reported by a committee, if any, upon pending amendments, and then upon the main question.

On a motion for the previous question, and prior to the vote being taken, one call of the convention shall be in order; but after a majority shall have seconded such motion, no call shall be in order prior to a decision of the main question.

No. 14. *Same*—When, on taking the previous question, the convention shall decide that the main question shall not now be put, the main question shall remain as the question before the convention, in the same stage of proceedings as before the previous question was made.

No. 15. *Incidental Questions*—All incidental questions of order, arising after a motion is made for the previous question, during the pending of such motion, or after the convention shall have determined that the main question shall now be put, shall be decided, whether on appeal or otherwise without debate.

No. 16. *Petitions*—Petitions, memorials and other papers addressed to the convention, shall be presented by the President, or by a member in his place.

No. 17. *Voting*—Every member who shall be present before the vote is declared from the chair, and no other, shall vote for or against the same, unless the convention shall excuse him; or unless he is immediately interested in the question, in which case he shall not vote.

No. 18. *When the Question is Being Put*—When the President is putting the question, no member shall walk out of or across the hall; nor when a member is speaking shall any person entertain any private discourse, or pass between him and the chair.

No. 19. *Several Points*—If the question in debate contains several points, any member may have the same divided.

No. 20. *Members Called to Order*—A member called to order shall immediately sit down, unless he desires to explain, after which he shall take his seat, until the point of order be decided by the chair, which shall be final, unless the member desires to appeal, in which case he shall have the right to arise, and ask the chair to put his motion to the convention, whose duty it shall be to immediately comply; and the question shall be: "Shall the decision of the chair be sustained?"

No. 21. *Title and Numbering of Propositions and Resolutions*—Propositions and resolutions proposing matter, to be incorporated in the constitution, shall be prefaced with the title, briefly indicating the subject to which they refer. They shall be in writing, on legal cap paper, or printed, and shall be numbered by the Clerk, in the order in which they are introduced.

No. 22. *Resolutions Limited to one Subject, Reading and Reference of Same*—Propositions and resolutions mentioned in the last foregoing rule shall embrace but one subject. They shall be read once when introduced, and then referred without debate to an appropriate committee.

No. 23. *General File*—All propositions and resolutions embracing matter proposed to be incorporated in the Constitution, reported by a standing or special committee, shall be read when reported, and if reported favorably such proposition or resolution shall be ordered printed, otherwise the printing thereof shall be within the discretion of the Convention, and thereupon the same shall be placed on a general file to be kept by the clerk in the order in which they are reported. They shall be taken from the file and acted upon in the order in which they are placed thereon, unless otherwise ordered by the Convention; *Provided*, That engrossed propositions and resolutions shall be placed at the head of the file in the order in which they are received. One hundred copies of the file for each day shall be printed.

No. 24. All propositions and resolutions embracing

matters proposed to be incorporated in the Constitution, the printing of which is provided for in subdivision 23, and all other printing necessary for the use of the Convention shall be done under the direction and control of the Committee on Printing; but in no case shall the original resolution or proposition proposed to be incorporated in the Constitution be placed in the hands of the printer; but a true copy thereof shall be made under the direction of the Printing Committee and forthwith by the committee delivered to the printer with instructions to print a sufficient number of copies thereof, not exceeding 150, and return the same without delay.

No. 25. *Committees Not to Sit During Session*—No committee shall sit during the session of the convention without leave.

No. 26. *Committee of the Whole*—In forming a committee of the whole convention the President shall appoint a member to preside. Propositions or resolutions relating to the Constitution shall be submitted to a committee of the whole convention, and shall be read and considered in committee of the whole, by sections. All amendments shall be noted and reported to the convention by the chairman. After report the proposition or resolution shall again be subject to amendment before the final vote shall be taken.

No. 27. The rules of the convention shall be observed in committee of the whole, so far as they may be applicable, except for limiting the time for speaking, and except that the ayes and noes shall not be taken, and that the previous question shall not be moved.

No. 28. A motion that the committee rise shall always be in order, and shall be decided without debate.

No. 29. *To be read at length and ayes noes entered*—Upon the final passage of any resolution or proposition proposed to be incorporated in the Constitution the same shall be read at length, and the vote thereon shall be taken by ayes and noes and entered in the journal.

No. 30. *Convention. Parliamentary Practice*—The rules of parliamentary practice, embraced in Jefferson's

Manual, shall govern the convention in all cases where they are applicable and in which they are not inconsistent with the standing rules and orders of the convention.

No. 31. *Convention. Suspend, Alter or Amend*—No rule of the convention shall be suspended, altered or amended, without the concurrence of two-thirds of the members present.

No. 32. *The Reading of Papers*—When the reading of a paper is called for, except petitions and memorials, and the same is objected to by any member, it shall be determined by the convention without debate,

No. 33. *Papers to be left with Secretary by Members Absent*—Every member before availing himself of a leave of absence, shall deposit with the Chief Clerk all papers belonging to the convention.

No. 34. *Extra Pay*—No increase of pay, nor any extra pay, shall be allowee to any officer or attache of the convention, by resolution or otherwise, except by unanimous consent.

No. 35. *Employment of Committee Clerks*—No committee shall be permitted to employ a clerk at public expense without at first obtaining leave of the convention for that purpose.

No. 36. *Order of Business*—

1. Roll call.
2. Prayer by the chaplain.
3. Reading and approval of the journal.
4. Reading and presentation of petitions and memorials, under which head shall include remonstrances, communications from individuals and public bodies.
5. Communications from Territorial officers—under which head shall be embraced also, communications from public officers and corporations, in response to calls for information.
6. Reports of Standing Committees, in the order in which they stand in the rules.

7. Reports of Select Committees.
8. Introduction of Resolutions and Propositions relating to the Constitution.
9. Unfinished Business.
10. Special Orders.
11. General Orders.
12. Miscellaneous Motions and Resolutions.

No. 37. *Reference of resolutions when Committees must report*—When a motion is made to refer any subject, and different committees should be proposed, the question shall be taken in the following order:

1. The committee of the whole convention.
2. The standing committee.
3. A select committee.

Every committee of the convention to whom a resolution or proposition has been referred, shall report the same to the convention within three days from the time in which it is received by the chairman of the committee, unless further time to report is granted. Every proposition or resolution shall be referred to the appropriate standing committee, as indicated by its name herein.

No. 38. *Motion or Proposition Different: No Amendment*—No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

No. 39. *Time of Meeting*—The hour of the daily meeting of the convention shall be 10 o'clock in the morning, until the convention directs otherwise.

No. 40. *Duties of Officers at the Close of the Session*—The Chief Clerk and Assistant Chief Clerk at the close of the session of the convention, must deliver to the secretary of the Territory, duly marked, labeled and arranged, all propositions, resolutions, petitions, memorials and other papers belonging to the convention, and also all books belonging to the same.

No. 41. *Substitutes*—A substitute shall be deemed an amendment, and treated in all respects as such.

No. 42. *Reconsideration*—When a motion has been made and carried or lost it shall be in order for any member of the majority on the same or succeeding day to move for the reconsideration thereof, and such motion shall take precedence of all other questions except a motion to fix a day to which the convention shall adjourn, to adjourn, or to take a recess, and shall not be withdrawn after the said succeeding day without the consent of the convention, and thereafter any member may call it up for consideration.

No. 43. *Standing Committees*—The standing committees of the convention shall be as follows:

1. On preamble and bill of rights, to consist of five members.
2. Rights of suffrage and qualification to office, to consist of five members.
3. On legislative departments, to consist of nine members.
4. On the executive departments, to consist of seven members.
5. On judiciary and judicial departments, including pardoning power, to consist of fifteen members.
6. On military affairs, to consist of five members.
7. On the finances of the State, public debt, the indebtedness of counties and municipalities, revenues, expenditures and taxation, and the restrictions to be placed on the powers of the Legislature in respect thereto, to consist of eleven members.
8. Education, to consist of seven members.
9. State institutions and public buildings, to consist of seven members.
10. On city, county, and town organizations, to consist of seven members.
11. Apportionment and representation, to consist of eleven members.
12. Corporations (other than municipal), to consist of seven members.

13. Miscellaneous subjects and future amendments, to consist of five members.

14. On schedule, to consist of five members.

15. On mining, water, and water rights, to consist of nine members.

16. Agriculture, manufactures, commerce, and immigration, to consist of nine members.

17. Reporting and printing and mileage and contingent expenses, to consist of five members.

18. Privileges and elections, to consist of five members.

19. Engrossment and enrollment, to consist of five members.

20. Boundaries, public lands and homestead exemptions, to consist of five members.

21. Revision, phraseology and adjustment, to consist of five members.

22. On ordinance, to consist of seven members.

23. On labor, to consist of seven members.

[PUBLIC—NO. 52.]

An act to provide for the division of Dakota into two States and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and State governments and to be admitted into the Union on an equal footing with the original States, and to make donations of public lands to such States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of all that part of the area of the United States now constituting the Territories of Dakota, Montana, and Washington, as at present described, may become the States of North Dakota, South Dakota, Montana, and Washington, respectively, as hereinafter provided.

SEC. 2. The area comprising the Territory of Dakota shall, for the purposes of this act, be divided on the line of the seventh standard parallel produced due west to the western boundary of said Territory; and the delegates elected as hereinafter provided to the constitutional convention in districts north of said parallel shall assemble in convention, at the time prescribed in this act, at the city of Bismarck; and the delegates elected in districts south of said parallel shall, at the same time assemble in convention at the city of Sioux Falls.

SEC. 3. That all persons who are qualified by the laws of said Territories to vote for representatives to the legislative assemblies thereof, are hereby authorized to vote for and choose delegates to form conventions in said proposed States; and the qualifications for delegates to such conventions shall be such as by the laws of said Territories respectively persons are required to possess to be eligible to the legislative assemblies thereof; and the aforesaid delegates to form said conventions shall be apportioned within the limits of the proposed States, in such districts as may be established as herein provided, in proportion to the population in each of said counties and districts, as near as may be, to be ascertained at the time of making said apportionments by the persons hereinafter authorized to make the same, from the best information obtainable, in each of which districts three delegates shall be elected, but no elector shall vote for more than two persons for delegates to such conventions; that

said apportionments shall be made by the governor, the chief-justice, and the secretary of said Territories; and the governors of said Territories shall, by proclamation, order an election of the delegates aforesaid in each of said proposed States, to be held on the Tuesday after the second Monday in May, eighteen hundred and eighty-nine, which proclamation shall be issued on the fifteenth day of April, eighteen hundred and eighty-nine; and such election shall be conducted, the returns made, the result ascertained, and the certificates to persons elected to such convention issued in the same manner as is prescribed by the laws of the said Territories regulating elections therein for Delegates to Congress; and the number of votes cast for delegates in each precinct shall also be returned. The number of delegates to said conventions respectively shall be seventy-five; and all persons resident in said proposed States, who are qualified voters of said Territories as herein provided, shall be entitled to vote upon the election of delegates, and under such rules and regulations as said conventions may prescribe, not in conflict with this act, upon the ratification or rejection of the constitutions.

SEC. 4. That the delegates to the conventions elected as provided for in this act shall meet at the seat of government of each of said Territories, except the delegates elected in South Dakota, who shall meet at the city of Sioux Falls, on the Fourth day of July, eighteen hundred and eighty-nine, and, after organization, shall declare, on behalf of the people of said proposed States, that they adopt the Constitution of the United States; whereupon the said conventions shall be, and are hereby, authorized to form constitutions and State governments for said proposed States, respectively. The constitutions shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said conventions shall provide, by ordinances irrevocable without the consent of the United and the people of said States:

First. That perfect toleration of religious sentiment shall be secured and that no inhabitant of said States shall ever be

molested in person or property on account of his or her mode of religious worship.

Second. That the people inhabiting said proposed States do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said States shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the States on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein, or in the ordinances herein provided for, shall preclude the said States from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation; but said ordinances shall provide that all such lands shall be exempt from taxation by said States so long and to such extent as such act of Congress may prescribe.

Third. That the debts and liabilities of said Territories shall be assumed and paid by said States, respectively.

Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of said States, and free from sectarian control.

SEC. 5. That the convention which shall assemble at Bismarck shall form a constitution and State government for a State to be known as North Dakota, and the convention which shall assemble at Sioux Falls shall form a constitution and State government for a State to be known as South Dakota: *Provided*, That at the election for delegates to the

constitutional convention in South Dakota, as hereinbefore provided, each elector may have written or printed on his ballot the words, "For the Sioux Falls constitution," or the words, "against the Sioux Falls constitution," and the votes on this question shall be returned and canvassed in the same manner as for the election provided for in section three of this act; and if a majority of all votes cast on this question shall be "for the Sioux Falls constitution" it shall be the duty of the convention which may assemble at Sioux Falls, as herein provided, to resubmit to the people of South Dakota, for ratification or rejection at the election hereinafter provided for in this act, the constitution framed at Sioux Falls and adopted November third, eighteen hundred and eighty-five, and also the articles and propositions separately submitted at that election, including the question of locating the temporary seat of government, with such changes only as relate to the name and boundary of the proposed State, to the reapportionment of the judicial and legislative districts, and such amendments as may be necessary in order to comply with the provisions of this act; and if a majority of the votes cast on the ratification or rejection of the constitution shall be for the constitution irrespective of the articles separately submitted, the State of South Dakota shall be admitted as a State in the Union under said constitution as hereinafter provided; but the archives, records, and books of the Territory of Dakota shall remain at Bismarck, the capital of North Dakota, until an agreement in reference thereto is reached by said States. But if at the election for delegates to the constitutional convention in South Dakota a majority of all the votes cast at that election shall be "against the Sioux Falls constitution," then and in that event shall be the duty of the convention which will assemble at the city of Sioux Falls on the fourth day of July, eighteen hundred and eighty-nine, to proceed to form a constitution and State government as provided in this act the same as if that question had not been submitted to a vote of the people of South Dakota.

SEC. 6. It shall be the duty of the constitutional conventions of North Dakota and South Dakota to appoint a joint commission, to be composed of not less than three members

of each convention, whose duty it shall be to assemble at Bismarck, the present seat of government of said Territory, and agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, and also adjust and agree upon the amount of the debts and liabilities of the Territory, which shall be assumed and paid by each of the proposed States of North Dakota and South Dakota; and the agreement reached respecting the Territorial debts and liabilities shall be incorporated in the respective constitutions, and each of such States shall obligate itself to pay its proportion of said debts and liabilities the same as if they had been created by such States respectively.

SEC. 7. If the constitutions formed for both North Dakota and South Dakota shall be rejected by the people at the elections for the ratification or rejection of their respective constitutions as provided for in this act, the Territorial government of Dakota shall continue in existence the same as if this act had not been passed. But if the constitution formed for either North Dakota or South Dakota shall be rejected by the people, that part of the Territory so rejecting its proposed constitution shall continue under the territorial government of the present territory of Dakota, but shall, after the State adopting its constitution is admitted into the Union, be called by the name of the Territory of North Dakota or South Dakota, as the case may be: *Provided*, That if either of the proposed States provided for in this act shall reject the constitution which may be submitted for ratification or rejection at the election provided therefor, the Governor of the Territory in which such proposed constitution was rejected shall issue his proclamation reconvening the delegates elected to the convention which formed such rejected constitution, fixing the time and place at which said delegates shall assemble; and when so assembled they shall proceed to form another constitution or to amend the rejected constitution, and shall submit such new constitution or amended constitution to the people of the proposed State for ratification or rejection, at such time as said convention may determine; and all the provisions of this act, so far as applicable, shall apply to such convention so reassembled and to the constitution which may be

formed, its ratification or rejection, and to the admission of the proposed State.

SEC. 8. That the constitutional convention which may assemble in South Dakota shall provide by ordinance for re-submitting the Sioux Falls constitution of eighteen hundred and eighty-five, after having amended the same as provided in section five of this act, to the people of South Dakota for ratification or rejection at an election to be held therein on the first Tuesday in October, eighteen hundred and eighty-nine; but if said constitutional convention is authorized and required to form a new constitution for South Dakota it shall provide for submitting the same in like manner to the people of South Dakota for ratification or rejection at an election to be held in said proposed state on the said first Tuesday in October. And the constitutional conventions which may assemble in North Dakota, Montana, and Washington shall provide in like manner for submitting the constitutions formed by them to the people of said proposed States, respectively, for ratification or rejection at elections to be held in said proposed States on the said first Tuesday in October. At the elections provided for in this section the qualified voters of said proposed States shall vote directly for or against the proposed constitutions, and for or against any articles or propositions separately submitted. The returns of said elections shall be made to the secretary of each of said Territories, who, with the governor and chief-justice thereof, or any two of them, shall canvass the same; and if a majority of the legal votes cast shall be for the constitution the governor shall certify the result to the President of the United States, together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of said constitution, articles, propositions, and ordinances. And if the constitutions and governments of said proposed States are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the President of the United States to issue his proclamation announcing the result of the election in each, and thereupon the proposed States which have adopted constitutions and formed State governments as herein provided shall be deemed admitted by Congress into the Union under and by virtue of this act on an equal

footing with the original States from and after the date of said proclamation. .

SEC. 9. That until the next general census, or until otherwise provided by law, said States shall be entitled to one Representative in the House of Representatives of the United States, except South Dakota, which shall be entitled to two; and the Representatives to the Fifty-first Congress, together with the governors and other officers provided for in said constitutions, may be elected on the same day of the election for the ratification or rejection of the constitutions; and until said State officers are elected and qualified under the provisions of each constitution and the States, respectively, are admitted into the Union, the Territorial officers shall continue to discharge the duties of their respective offices in each of said Territories.

SEC. 10. That upon the admission of each of said States into the Union sections numbered sixteen and thirty-six in every township of said proposed States, and where such section, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said States for the support of common schools, such indemnity lands to be selected within said States in such manner as the legislature may provide, with the approval of the Secretary of the Interior; *Provided*, That the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military or other reservations of any character be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to, and become a part of, the public domain.

SEC. 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than ten dollars per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulations as the legislatures shall

prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such lands shall not be subject to pre-emption, homestead entry or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 12. That upon the admission of each of said States into the Union, in accordance with the provisions of this act, fifty sections of the unappropriated public lands within said States, to be selected and located in legal subdivisions as provided in section ten of this act, shall be, and are hereby, granted to said States for the purpose of erecting public buildings at the capital of said States for legislative, executive and judicial purposes.

SEC. 13. That five per centum of the proceeds of the sale of public lands lying within said States which shall be sold by the United States subsequent to the admission of said States into the Union, after deducting all the expenses incident to the same, shall be paid to the said States, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said states respectively.

SEC. 14. That the lands granted to the Territories of Dakota and Montana by the act of February eighteenth, eighteen hundred and eighty-one, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," are hereby vested in the States of South Dakota, North Dakota, and Montana, respectively, if such States are admitted into the Union, as provided in this act, to the extent of the full quantity of seventy-two sections to each of said States, and any portion of said lands that may not have been selected by either of said Territories of Dakota or Montana may be selected by the respective States aforesaid; but said act of February eighteenth, eighteen hundred and eighty-one, shall be so amended as to provide that none of said lands shall be sold for less than ten dollars per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said States severally, and the income thereof be used exclusively for university purposes. And such quantity of the lands authorized by the fourth section of the act of July seventeenth, eighteen hun-

dred and fifty-four, to be reserved for university purposes in the Territory of Washington, as, together with the lands confirmed to the vendees of the Territory by the act of March fourteenth, eighteen hundred and sixty-four, will make the full quantity of seventy-two entire sections, are hereby granted in the like manner to the State of Washington for the purpose of a university in said State. None of the lands granted in this section shall be sold at less than ten dollars per acre; but said lands may be leased in the same manner as provided in section eleven of this act. The schools, colleges and universities provided for in this act shall forever remain under the exclusive control of the said States, respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college or university. The section of land granted by the act of June sixteenth, eighteen hundred and eighty, to the Territory of Dakota, for an asylum for the insane shall, upon admission of the said State of South Dakota into the Union, become the property of said State.

SEC. 15. That so much of the lands belonging to the United States as have been acquired and set apart for the purpose mentioned in "An act appropriating money for the erection of a penitentiary in the Territory of Dakota," approved March second, eighteen hundred and eighty-one, together with the buildings thereon, be, and the same is hereby granted, together with any unexpended balances of the moneys appropriated therefor by said act, to said State of South Dakota for the purposes therein designated; and the States of North Dakota and Washington shall, respectively, have like grants for the same purpose, and subject to like terms and conditions as provided in said act of March second, eighteen hundred and eighty-one, for the Territory of Dakota. The penitentiary at Deer Lodge City, Montana, and all lands connected therewith and set apart and reserved therefor, are hereby granted to the State of Montana.

SEC. 16. That ninety thousand acres of land, to be selected and located as provided in section ten of this act, are hereby granted to each of said States, except to the State of South Dakota, to which one hundred and twenty thous-

and acres are granted, for the use and support of agricultural colleges in said States, as provided in the acts of Congress making donations of lands for such purpose.

SEC. 17. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the act of September fourth, eighteen hundred and forty-one, which act is hereby repealed as to the States provided for by this act, and in lieu of any claim or demand by the said States, or either of them, under the act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared in not extended to to the States provided for in this act, and in lieu of any grant of saline lands to said States, the following grants of land are hereby made, to wit:

To the State of South Dakota: For the school of mines, forty thousand acres; for the reform school, forty thousand acres; for the deaf and dumb asylum, forty thousand acres; for the agricultural college, forty thousand acres; for the university, forty thousand acres; for State normal schools, eighty thousand acres; for public buildings at the capital of said State, fifty thousand acres, and for such other educational and charitable purposes as the legislature of said State may determine, one hundred and seventy-five thousand acres; in all five hundred thousand acres.

To the State of North Dakota a like quantity of land as is in this section granted to the State of South Dakota, and to be for like purposes, and in like proportion as far as practicable.

To the State of Montana: For the establishment and maintenance of a school of mines, one hundred thousand acres; for State normal schools, one hundred thousand acres; for agricultural colleges, in addition to the grant hereinbefore made for that purpose, fifty thousand acres; for the establishment of a state reform school 50,000 acres, for the establishment of a deaf and dumb asylum, fifty thousand acres; for public buildings at the capital of the State, in addition to the grant hereinbefore made for that purpose, one hundred and fifty thousand acres.

To the State of Washington: For the establishment and

maintenance of a scientific school, one hundred thousand acres; for State normal schools, one hundred thousand acres; for public buildings at the State capital, in addition to the grant hereinbefore made for that purpose, one hundred thousand acres; for State charitable, educational, penal, and reformatory institutions, two hundred thousand acres.

That the States provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the legislatures of the respective States may severally provide.

SEC. 18. That all mineral lands shall be exempted from the grants made by this act. But if sections sixteen and thirty-six, or any subdivision or portion of any smallest subdivision thereof in any township shall be found by the Department of the Interior to be mineral lands, said States are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said States, in lieu thereof, for the use and the benefit of the common schools of said States.

SEC. 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the Secretary of the Interior, from the surveyed, unreserved, and unappropriated public lands of the United States within the limits of the respective States entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said States the number of acres in each heretofore donated by Congress to said Territories for similar objects.

SEC. 20. That the sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to each of said Territories for defraying the expenses of the said conventions, except to Dakota, for which the sum of forty thousand dollars is so appropriated, twenty thousand dollars each for South Dakota and North Dakota, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by

law for the payment of the Territorial legislatures. Any money hereby appropriated not necessary for such purpose shall be covered into the treasury of the United States.

SEC. 21. That each of said States, when admitted as aforesaid, shall constitute one judicial district, the names thereof to be the same as the names of the States, respectively; and the circuit and district courts therefor shall be held at the capital of such State for the time being, and each of said districts shall, for judicial purposes, until otherwise provided, be attached to the eighth judicial circuit, except Washington and Montana, which shall be attached to the ninth judicial district. There shall be appointed for each of said districts, one district judge, one United States attorney, and one United States marshal. The judge of each of said districts shall receive a yearly salary of three thousand, five hundred dollars, payable in four equal installments, on the first days of January, April, July, and October of each year, and shall reside in the district. There shall be appointed clerks of said courts in each district, who shall keep their offices at the capital of said State; the regular term of said courts shall be held in each district at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts. The circuit and district courts for each of said districts, and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerks of the circuit and district court of each of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States; and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the state of Nebraska.

SEC. 22. That all cases of appeal or writ of error here-

tofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of either of the Territories mentioned in this act, or that may hereafter lawfully be prosecuted upon any record from either of said courts may be heard and determined by said Supreme Court of the United States. And the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the State succeeding the Territory from which such record is or may be pending, or to the supreme court of such State, as the nature of the case may require: *Provided*, That the mandate of execution or of further proceedings shall, in cases arising in the Territory of Dakota, be directed by the Supreme Court of the United States to the circuit or district court of the district of South Dakota, or to the supreme court of the State of South Dakota, or to the circuit or district court of the district of North Dakota, or to the supreme court of the State of North Dakota, or to the supreme court of the Territory of North Dakota, as the nature of the case may require. And each of the circuit, district, and State courts, herein named, shall, respectively, be the successor of the supreme court of the Territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts respectively with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of either of the Territories mentioned in this act, in any case arising within the limits of any of the proposed States prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by law prior to the admission of said State into the Union.

SEC. 23. That in respect to all cases, proceedings, and matters now pending in the supreme or district courts of either of the Territories mentioned in this act at the time of the admission into the Union of either of the States mentioned in this act, and arising within the limits of any such State, whereof the circuit or district courts by this act

established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said Territory; and in respect to all other proceedings and matters pending in the supreme or district cases courts of any of the Territories mentioned in this act at the time of the admission of such Territory into the Union, arising within the limits of said proposed State, the courts established by such state shall, respectively, be the successors of said supreme and district Territorial courts; and all the files, records, indictments, and proceedings relating to any such cases, shall be transferred to such circuit, district, and State courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause or proceeding now pending, or that prior to the admission of any of the States mentioned in this act, shall be pending in any Territorial court in any of the Territories mentioned in this act, shall abate by the admission of any such State into the Union, but the same shall be transferred and proceeded with in the proper United States circuit, district or State court, as the case may be: *Provided, however,* That in all civil actions, causes, and proceedings, in which the United States is not a party, transfer shall not be made to the circuit and district courts of the United States, except upon written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with in the proper State courts.

SEC. 24. That the constitutional conventions may, by ordinance, provide for the election of officers for full State governments including members of the legislatures and Representatives in the Fifty-first Congress; but said State governments shall remain in abeyance until the States shall be admitted into the Union, respectively, as provided in this act. In case the constitution of any of said proposed States shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize, and elect two Senators of the United States; and the governor and secretary of state of such proposed State shall certify the election of the Senators and Representatives in the

manner required by law; and when such State is admitted into the Union, the Senators and Representatives shall be entitled to be admitted to seats in Congress, and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States; and the officers of the State governments formed in pursuance of said constitutions, as provided by the constitutional conventions shall proceed to exercise all the functions of such State officers; and all laws in force made by said Territories, at the time of their admission into the Union, shall be in force in said States, except as modified or changed by this act or by the constitutions of the States, respectively.

SEC. 25. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislatures of said Territories or by Congress, are hereby repealed.

Approved, February 22, 1889.